

September 24, 2012

Terri Senkow

Lake Superior Treatment Center

8529 South Park Circle, Suite 270

Orlando, FL 32819

License Number: 1008733 (Chemical Dependency Treatment Services)

Licensing complaint report number: 20121363

Licensing complaint report number: 20114590

CERTIFIED MAIL

ORDER OF LICENSE REVOCATION

Dear Ms. Senkow:

You are hereby notified that the Commissioner of the Department of Human Services (DHS) is revoking Lake Superior Treatment Center's license to provide chemical dependency treatment services under license number 1008733 for the program located at 14 East Central Entrance, Duluth, Minnesota, 55811. The Order of License Revocation is based on noncompliance with terms of a conditional license and serious and chronic licensing violations determined during a licensing review conducted on August 2 and 3, 2012.

The Order of License Revocation is effective 6:00 p.m. on Monday, October 8, 2012.

This time period corresponds with the time period you are provided to appeal the license revocation. Your due process rights are explained in section B of this order.

You must immediately notify referral sources and agencies that authorize services of this order of license revocation. You must also immediately contact the Alcohol and Drug Abuse Division to arrange alternative services for individuals currently served by the program.

A. Reason for the Order of License Revocation

Under Minnesota Statutes, section 245A.07, subdivision 1, the Commissioner may revoke a license when a program does not comply with applicable law or rule.

When applying sanctions under section 245A.07, the Commissioner must consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

On March 26, 2012, your license to provide chemical dependency treatment was placed on conditional status. A subsequent licensing review was conducted on August 2 and 3, 2012, to evaluate your compliance with the terms required in the conditional order. The focus of the licensing review concentrated on the content of client files and the license holder's practices during the time period between DHS training on rule compliance and self-monitoring that occurred on May 30, 2012, (terms required in the conditional order) and the date of the licensing review on August 2 and 3, 2012.

- **Chronicity** – Twenty violations in this order are repeat licensing violations that are similar to violations the license holder was cited for in an Order of Conditional License dated March 26, 2012. Thirteen of the twenty violations are also repeat licensing violations that are similar to violations the license holder was cited for in a Correction Order dated December 22, 2009.

The chronic violations continues in areas including: excessive counselor caseloads; inadequate take home opiate diversion control practices; failed management of admission waiting lists; program policies and procedures being inaccessible to staff; failure to implement client grievance procedures; failure to train staff on reporting requirements related to maltreatment of children and vulnerable adults; failure to train staff on co-occurring mental health problems and substance use disorders; failure to document proper consent from clients regarding maltreatment reporting; inadequate and absent service planning for clients; inadequate and absent determinations of clients' vulnerable adult status; inadequate and absent central registry documentation of clients; inadequate client assessments; inadequate and absent treatment plans for clients; inadequate and absent documentation of treatment progress; failure to review treatment plans; failures related to documentation of terminated services; failures to provide required documentation of service participation; and a clearly demonstrated failure by the program director to understand the licensing regulations.

- **Nature and Severity** – Many of the 56 violations are violations of law or rule effecting the health, safety, or rights of individuals served by the program. In addition to the areas of chronic non-compliance, additional violations were found related to: background studies on people providing direct contact services; failures related to methadone administration and monitoring of administration; failures related to employing properly credentialed treatment program staff and access to credentialed individuals; inadequate and absent policies and procedures for reporting of possible maltreatment of children and vulnerable adults; counselors supervising more than 50 clients; and incomplete treatment plans and progress notes.

- **Background Study violations** – A review of personnel files revealed 15 background study violations.

- **Noncompliance with the terms of a conditional license** – the license holder failed to fully comply with terms of the Order of Conditional License dated March 26,

2012, as indicated below:

- (1) Based on the licensing violations cited in this order, the license holder failed to demonstrate substantial compliance with licensing requirements governing chemical dependency treatment as required by the Order of Conditional License dated March 26, 2012.
- (2) The license holder failed to ensure that the treatment director was full-time at the program and had no additional responsibilities for other programs. The former treatment director (SP10) began acting as regional director of the organization's five methadone treatment programs in Minnesota on June 8, 2012. The license holder hired a new treatment director (SP3) who started working on August 1, 2012.
- (3) The license holder failed to submit a copy of the notice of conditional license and list of referral sources that received the notice within 30 days of receipt of the Order of Conditional License dated March 26, 2012. The list of referral sources was submitted on May 16, 2012, and the notice was submitted on June 7, 2012.
- (4) The license holder failed to ensure that the treatment directors of all of the licensed programs attended the DHS training regarding rule compliance and self-monitoring on May 30, 2012. One of the treatment directors (St. Paul Metro) attended only half of the training.
- (5) The license holder failed to submit the results of a time study regarding counselor's duties within 60 days of receipt of the Order of Conditional License dated March 26, 2012. The time study results were submitted on June 7, 2012.
- (6) The license holder failed to document sufficient efforts to increase group attendance for clients. The license holder described a posting and group sign-up sheets as the efforts to increase group attendance. In a review of client files, there was no evidence of staff's efforts to increase group attendance.
- (7) The program's policies and procedures were not stored in an area that was accessible to all staff. The policies and procedures are available only electronically through the program's intranet system. Staff reported that Colonial Management Group does not allow staff to print or maintain printed copies of the policy and procedure manual and that when the intranet system is "down" the program's policies and procedures are not available to staff.

Under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c), clause (4), the background study violations and licensing violations identified under item B could be assessed a fine of \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, or \$100 for each occurrence of a violation of a law or rule not subject to a \$1,000 or \$200 fine. Because the Commissioner is revoking your chemical dependency treatment license, the Commissioner is not issuing a fine for the licensing violations identified under item B.

B. Statutory Citation and License Violation

1. Citation: Minnesota Statutes, section 245C.04, subdivision 1, paragraph (h).

Violation: On August 3, 2012, a DHS licenser reviewed personnel records and determined that the license holder did not submit background study requests to DHS for 14 staff persons (SP1 through SP14) before they began positions allowing direct contact with persons served by the program.

- SP1 began a position allowing direct contact with persons served by the program on June 29, 2012. At the time of the licensing review on August 3, 2012, the license holder had not submitted a background study request to DHS for SP1. The license holder was informed at the time of the review that SP1 must be immediately removed and if SP1 continues to have direct contact a background study is required.

At the time of the issuance of this order, no background study has been received on SP1. Immediately remove SP1 from any position allowing direct contact with persons served by the program. If you appeal the license revocation and elect to continue to operate pending a final order, you must immediately submit a background study request to DHS for SP1. After the background study is initiated, and pending notice from the Commissioner, ensure that SP1 does not provide direct contact services to persons served by the program unless s/he is under continuous direct supervision by another staff person who has received a background study clearance notification from DHS. (See Minnesota Statutes, section 245C.13, subdivision 2.)

- SP2 through SP14 began positions allowing direct contact with persons served by the program before the license holder submitted background study requests to DHS as indicated in the following table.

Staff Person	Date of Direct Contact	Date BGS Submitted
SP2	May 17, 2012	June 7, 2012
SP3	June 8, 2012	June 18, 2012
SP4	May 10, 2012	June 6, 2012
SP5	March 19, 2012	April 16, 2012
SP6	April 24, 2011	October 17, 2011
SP7	May 9, 2012	June 7, 2012

SP8	September 9, 2010	July 21, 2011
SP9	May 9, 2011	May 13, 2011
SP10	October 3, 2011	November 29, 2011
SP11	June 10, 2012	June 25, 2012
SP12	July 6, 2012	July 26, 2012
SP13	March 30, 2012	July 26, 2012
SP14	March 8, 2012	April 16, 2012

2. Citation: Minnesota Statutes, section 245C.20.

Violation: The license holder did not document in the program's personnel file the date the program initiated a background study on a staff person (SP15).

3. Citation: Minnesota Rules, part 9530.6440, subparts 1, 2, and 3.

Violation: Client records were not protected against loss, tampering, or unauthorized disclosure.

A client file reviewed only consisted of progress notes and case notes, and did not contain any further documentation related to the outpatient treatment services the client received from February 2011 to April 2012. Contents that were missing from the file included an initial services plan, a comprehensive assessment, an assessment summary, a treatment plan, treatment plan reviews, a summary at the termination of services, physician orders, and a medication administration record. A managerial official stated that s/he believed the missing documents were taken by a former counselor and that no further documentation related to the client's treatment existed. No effort was made by the program to secure these documents.

4. Citation: Minnesota Rules, parts 9530.6450, subpart 3, item B and 9530.6460, subpart 3, item E.

Violation: One personnel file was reviewed for treatment director qualification requirements (personnel file numbered 3) and did not contain documentation that the staff person met the qualification requirements for a treatment director. To date, the license holder has failed to submit documentation that verifies this staff person is qualified as a treatment director.

5. Citation: Minnesota Rules, part 9530.6445, subpart 4.

Violation: The license holder did not comply with the requirement that counselors in a program treating intravenous drug abusers must not supervise more than 50 clients.

- All seven counselors at the program were assigned to supervise more than 50 clients during the week of September 10, 2012;
- Two counselors supervised more than 50 clients each during the week of July 13, 2012, when they were required to supervise the clients assigned to them and the clients assigned to three interns; and
- Seven counselors supervised more than 50 clients each during the weeks of June 11, June 18, and June 25, 2012. The license holder reported that seven counselors and one intern were providing services to more than 350 clients during each of these weeks. Interns cannot supervise clients for the purpose of meeting this requirement.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

6. Citation: Minnesota Statutes, section 245A.04, subdivision 14.

Violation: The license holder failed to monitor the implementation of the license holder's policies and procedures.

The license holder's policy titled *Diversion Control Policy and Plan* requires counselors to conduct a minimum of one unannounced take home call back from their own caseloads each week. A managerial official explained that prior to June 2012 a system to monitor these take home call backs did not exist. The documentation of take home call backs from June 2012 through July 2012 listed a total of 14 take home call backs that were conducted. The license holder's policy would require 32 take home call backs for this period.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

7. Citation: Minnesota Statutes, section 245A.04, subdivision 14.

Violation: The license holder failed to monitor implementation of policies and procedures related to the administration of methadone as evidenced by the following items that violated the license holder's policies and procedures for medication management:

a. The license holder's policies and procedures for initial methadone dose requirements were not followed. The client files (client files numbered 9 and 10) contained orders from the program's physician that ordered initial doses of 35 milligrams of methadone. The program's medication management policy states, "30 mgs is not a recommended initial dose, it is the maximum initial dose." Additionally, federal requirements state "the initial dose of methadone shall not exceed 30 milligrams" (Code of Federal Regulations, title 42, section 8.12 (h) (3) (ii)).

b. The license holder's medication management policies for implementing changes to the daily methadone dose amounts for clients were not followed. The license holder's policies contain the following protocols:

- "At such time that the patient is comfortable even briefly, the dose for that day is held to equal the total dose for the previous day.
- Stabilization continues and patients may need 5 to 10 mg increases (each dose change shall be authorized through physician order) every 2-3 days until relief lasts the full dosing interval, usually 24 hours.
- Once initial relief has been achieved we rely on the steady-state process to take effect before further dose increases. Any dose increase will require 2-3 days for full effect.
- Changing the patient's dose may not be accomplished before the physician actually signs off on the request form or before the physician issues verbal orders."

These protocols were not implemented correctly in the following ways:

(1) Client file numbered ten contained initial orders signed by the physician on June 8, 2012, that stated, "[S/he] shall be given 35 mg p.o. daily methadone. Add 5 mg p.o. daily until comfortable."

On June 9, 2012, the medication record note stated, "Patient is maintaining well. No complaints noted." However, the client's daily dose was still increased by the nursing staff sixteen times at 5 milligrams or 10 milligrams intervals, over the course of several weeks until the client was receiving a daily dose of 140 milligrams on August 1, 2012 without any additional orders signed by a physician.

The only documentation contained in the client's file of a physician's authorization for any of these increases were two unsigned notes. One from July 8, 2012, that stated, "Nurse - Patient is c/o being very anxious and irritable, not sleeping and having cravings. Will increase dose by 5 mg per [physician]." And a second note on July 26, 2012, that stated, "Nurse - MD: Increase 10 mg to 110 mg daily x3Q then increase by 10 mg to 120 mg p.o. daily continuously."

The above listed note for the increase to 110 milligrams was dated July 26, 2012.

However, the client received their first 110 milligrams dose on July 24, 2012. A physician's order was not documented for this increase.

(2) Client file numbered 9 contained initial orders signed by the physician on June 29, 2012, that stated, "Methadone 35 mg p.o. today and [increase] 5 mg daily increase until comfortable."

On June 30, 2012, the medication record note stated, "Patient is maintaining well. No complaints noted." However, the client's daily dose was still increased by 5 milligrams up to 40 milligrams without any additional documentation for the increase. A physician's order was not documented for this increase.

On July 3, 2012, the medication record note states, "Patient is maintaining well. No complaints noted." However, the client's daily dose was still increased by 5 milligrams up to 50 milligrams without any additional documentation for the increase. A physician's order was not documented for this increase.

On July 7, 2012, the medication record note states, "patient is c/o anxiety, but chooses to stay at 50 mg today." The next day on July 8, 2012, the client received a dose of 55 milligrams. The medication note for this date states, "Patient is maintaining well. No complaints noted." A physician's order was not documented for this increase.

(3) Client file numbered 1 had an order signed by the physician on July 18, 2012, that stated, "We will start at methadone 60 mg p.o. daily and increase by 10 mg p.o. daily until 110 mg reached."

On July 28, 2012, the client's dose is increased to 120 milligrams. A physician's order was not documented for this increase.

8. Citation: Minnesota Rules, part 9530.6435, subpart 3, item B and subpart 4, items A and C.

Violation: The license holder failed to employ or contract with a registered nurse to provide supervision to licensed practical nurses. In addition, the program's medication administration or assistance with self-medication policies and procedures did not meet requirements in the following ways:

a. There was no evidence that the policies and procedures for medication administration or assistance with self-administration of medication were developed by a registered nurse;

b. There was no evidence that the policies and procedures for control of drugs were developed by a registered nurse; and

c. The procedures did not indicate that recording the client's use of medication would include the time and date of the signature of the administrator of the medication.

9. Citation: Minnesota Rules, part 9530.6435, subpart 2.

Violation: The license holder failed to maintain access to and document the availability of a licensed Mental Health Professional to provide diagnostic assessment and treatment planning assistance.

10. Citation: Minnesota Rules, part 9530.6500, subparts 3 and 4.

Violation: The following violations regarding the capacity management and waiting list systems were determined since issuance of the Order of Conditional License on March 26, 2012:

- a. The license holder failed to maintain and report a waiting list as required. The license holder reported several waiting lists in April and May 2012 to the State Opioid Treatment Authority that fluctuated from 182 persons 461 persons within weeks. A managerial official explained that the drastic increase was due to a more comprehensive list surfacing. On June 5, 2012, the managerial official reported that the program no longer had a waiting list. When asked about the apparent discontinuation of the waiting list the managerial official stated that the list was too old and that there was no way to determine who should have been on the list;
- b. After the waiting list was discontinued, the license holder continued to take new admissions and did not notify the individuals on the discontinued waiting lists that they were no longer on the list or that they would need to apply again in order to be admitted;
- c. Referral agents stated the program had not provided them with a notification as required for clients who could not be admitted to the program within 14 days, including any available treatment capacity listed in the state capacity management system; and
- d. At the time of the review, the documentation provided by the license holder did not track the 14 day timeframe by which the individuals seeking admission to the program would need to be added to the waiting list if admission did not occur. Due to the license holder's failure to track the dates of application for admission to the program, the licensors were unable to determine if the program was meeting this requirement.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

11. Citation: Minnesota Statutes, section 245A.04, subdivision 14, paragraph (c), and Minnesota Rules, part 9530.6455.

Violation: The license holder's policies and procedures were not immediately accessible to staff, consumers of the services, and other authorized parties as

required.

Policies and procedures were requested from a staff person during the licensing review. However, the staff person explained that the intranet was down and they did not have access to the policy and procedure manual because it is accessible to staff only through the license holder's intranet and there was no hard copy of the license holder's policies and procedures at the program. A staff person also reported that clients are not allowed to have access to the policies and procedures.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

12. Citation: Minnesota Rules, part 9530.6455, item I.

Violation: The procedure for reporting maltreatment of minors in the license holder's policy and procedure manual titled *Maltreatment of Minors Policy* contained different procedures than the reporting procedure posted at the program. The posted reporting procedure was approved by DHS and met all applicable requirements. The reporting procedure in the license holder's policy and procedure manual did not meet the requirements for reporting maltreatment of minors.

13. Citation: Minnesota Statutes, section 245A.65, subdivision 1, paragraphs (a), (b), and (d), and section 626.557, subdivision 3, paragraph (a) and subdivision 4a.

Violation: The license holder's policies and procedures for reporting maltreatment of vulnerable adults did not meet statutory requirements in the following ways:

- a. The program's policies and procedures for the reporting of alleged or suspected maltreatment of vulnerable adults were not posted in the program as required.
- b. The policy did not include a secondary person or position to whom internal reports may be made.
- c. The policy did not include a secondary person responsible for forwarding internal reports to the common entry point (CEP).
- d. The policy did not include that the secondary person must be involved to receive the report and forward it to the CEP when there is reason to believe that the primary person was involved in the alleged maltreatment.
- e. The policy did not include that an internal review must be completed when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made.
- f. The policy did not include that the internal review must include an evaluation of whether:

- (1) Related policies and procedures were followed;
- (2) The policies and procedures were adequate;
- (3) There is a need for additional staff training;
- (4) The policy did not include an evaluation of whether the reported event is similar to past events with the vulnerable adults or the services involved; and
- (5) There is a need for any corrective action to be taken to protect the health and safety of vulnerable adults.

g. The policy did not include that, based on the internal review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals of the license holder.

h. The policy did not include the primary and secondary person or position who will ensure that, when required, internal reviews are completed.

i. The policy did not include that the secondary person must be involved in completing the internal review when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment.

j. The policy did not include that the license holder must document internal reviews and make that documentation available to the commissioner upon the commissioner's request.

k. The policy did not require that if the facility received a report of suspected maltreatment and determined to report it to the CEP that the facility notifies the CEP within 24 hours of awareness of the suspected maltreatment.

l. The policy did not include that reporters are informed about whether the facility reported the incident to the CEP:

- (1) In writing;
- (2) Within two working days; and
- (3) In a manner that protects the confidentiality of the reporter.

m. The policy did not include that the written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the CEP, then the mandated reporter may report externally.

n. The policy did not include that the facility may not prohibit a mandated reporter

from reporting externally, and that a facility is prohibited from retaliating against a mandated reporter who reports an incident to the CEP in good faith.

o. The policy did not include that the mandated reporter must receive a written notice informing the reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.

14. Citation: Minnesota Statutes, sections 245A.65, subdivision 2, paragraph (a) and 626.557, subdivision 14, paragraph (a).

Violation: The license holder's policy and procedure manual did not contain a program abuse prevention plan; a program abuse prevention plan was not posted in the program as required; and there was no documentation that the license holder's governing body reviewing the plan at least annually.

15. Citation: Minnesota Statutes, section 245A.19, paragraph (c).

Violation: The license holder failed to maintain a list of referral sources for the purpose of making necessary referrals of clients to HIV-related services. Although DHS licensors made multiple requests to the treatment director and regional director to provide documentation of this list during the licensing review, no list was provided.

16. Citation: Minnesota Rules, part 9530.6500, subpart 5.

Violation: The license holder's outreach policy did not describe how the program would train and supervise outreach workers. In addition, the license holder failed to provide outreach activities as required.

17. Citation: Minnesota Rules, part 9530.6460, subpart 1, item B.

Violation: The license holder's policy and procedure manual did not contain job descriptions for each position. During the licensing review, a DHS licensor made multiple requests to the treatment director to provide job descriptions. No job descriptions were provided to the DHS licensor.

18. Citation: Minnesota Rules, part 9530.6465, subpart 1.

Violation: The program's policy and procedure manual contained two service initiation criteria policies. Both policies were reviewed and neither included the following required information:

Service initiation preferences that comply with Code of Federal Regulations, title 45, part 96.131, including the identification of the requirement for preferential treatment as follows:

(1) Pregnant injecting drug users;

- (2) Pregnant substance abusers;
- (3) Injecting drug users; and
- (4) All others.

19. Citation: Minnesota Rules, part 9530.6465, subpart 2, item A.

Violation: The program's policy and procedure manual contained three policies or procedures related to clients' discharge. These policies and procedures did not include the requirement that all service terminations and denials of service initiation which pose an immediate threat to the health of any individual or require immediate medication intervention be referred to a medical facility capable of admitting the individual.

20. Citation: Minnesota Rule, parts 9430.6455, item E, and 9530.6470, subpart 1.

Violation: The program's policy and procedure manual contained three client rights and responsibilities policies or procedures. These policies and procedures did not contain all of the rights required under Minnesota Rules, part 4747.1500 (effective August 1, 2012, see 2012 Laws of Minnesota chapter 197, article 2, section 34). In addition, the license holder's policy and procedure manual did not include the rights required for clients committed under Minnesota Statutes, chapter 253B.

21. Citation: Minnesota Rules, part 9530.6455, items J and L, and part 9530.6430, subpart 1, item A.

Violation: The license holder's description of treatment services did not meet licensing requirements in the following ways:

a. The description of treatment services did not include the following required treatment services:

- (1) Transition services to help the client integrate gains made during treatment into daily living and to reduce reliance on the license holder's staff for support;
- (2) Services to address issues related to co-occurring mental illness;
- (3) Groups to address co-occurring mental illness issues; and
- (4) Service coordination to help the client obtain the services and support the client needs to establish a lifestyle free of the harmful effects of substance use disorder.

b. The description did not identify the amount of client services that would be provided.

c. The description did not include the program's hours of operation.

22. Citation: Minnesota Rules, part 9530.6455, item C.

Violation: The license holder's tuberculosis policies and procedures did not include a statement that the program would report known cases of tuberculosis infection according to Minnesota Statutes, section 144.4804.

23. Citation: Minnesota Rules, part 9530.6460, subpart 1, item F.

Violation: The license holder's policy and procedure manual did not contain a chart or description of the organizational structure of the program.

24. Citation: Minnesota Rules, part 9530.6460, subpart 1, item H.

Violation: The personnel policies and procedures did not outline the license holder's response to staff members with behavior problems that interfere with the provision of treatment services.

25. Citation: Minnesota Rules, part 9530.6470, subpart 2.

Violation: The license holder did not meet the following requirements governing the client grievances policy.

- a. The grievance procedure was not posted in the program.
- b. The grievance procedure contained an incorrect phone number for the DHS, Licensing Division.
- c. The grievance procedure did not require the license holder to respond to the client's grievance within three days of a staff member's receipt of the grievance.
- d. During a review of grievance documentation, DHS licensors determined that in three grievances filed in July 2012 the license holder did not respond to the clients' grievances within three days of receipt of the grievance.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

26. Citation: Minnesota Rules, part 9530.6450, subpart 8.

Violation: The license holder did not ensure that a qualified staff person reviewed and signed all assessments and treatment plans prepared by an intern. A treatment plan dated July 26, 2012, (client file numbered 9) was prepared by an intern and was not signed by a qualified staff person.

27. Citation: Minnesota Rules, part 9530.6450, subpart 9, item A.

Violation: The license holder did not ensure documentation of supervision, provided

at least weekly, was provided to an individual with a temporary permit from the Board of Behavioral Health and Therapy (personnel file numbered 4).

28. Citation: Minnesota Rules, part 9530.6460, subpart 3.

Violation: The license holder failed to maintain a personnel file for each staff member. Required personnel file documents that were not maintained included:

- a. A completed application for employment;
- b. Documentation related to the applicant's background study data as defined in Minnesota Statutes, chapter 245C; and
- c. Documentation of completed orientation and training; and
- d. Documentation demonstrating compliance with Minnesota Rules, part 9530.6450.

During the licensing review on August 2 and 3, 2012, a DHS licensor requested the personnel file for a security guard. Although all security guards provide direct contact services, a managerial official explained that the program only maintained a personnel file for the primary security guard and that the program did not have personnel files for the other security guards that work when the primary security guard has the day off.

29. Citation: Minnesota Rules, part 9530.6445, subpart 4.

Violation: The license holder failed to document that at least 25 percent of counselors' scheduled work hours were allocated to indirect services, including documentation of client services, coordination of services with others, treatment team meetings, and other duties.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

30. Citation: Minnesota Rules, part 9530.6450, subpart 1, items A and B.

Violation: Six of six personnel files reviewed for staff qualification requirements did not meet the following requirements:

- a. The personnel files contained statements of freedom from chemical use problems for the two years preceding the staff person's hire date for treatment directors, supervisors, nurses, counselors, and other professionals. However, the statement did not define chemical use problems correctly (personnel files numbered 1, 3, 4,

and 8); and

b. The personnel files contained statements of freedom from chemical use problems for one year preceding the staff person's hire date for paraprofessionals and other staff members. However, the statement did not define chemical use problems correctly (personnel files numbered 2 and 6).

31. Citation: Minnesota Rules, part 9530.6460, subparts 1, item G and 3, item D.

Violation: Two of three personnel files reviewed for orientation requirements did not include documentation of completed orientation, based on the written plan, including:

a. Training to the specific job functions for which the staff member was hired (personnel files numbered 1 and 6);

b. Policies and procedures (personnel file numbered 1);

c. Client confidentiality (personnel file numbered 1); and

d. Client needs (personnel files numbered 1).

32. Citation: Minnesota Statutes, section 245A.04, subdivision 1, (c).

Violation: One of six personnel files reviewed (personnel file numbered 1) did not contain documentation that the person had received training on the program's drug and alcohol policy.

33. Citation: Minnesota Statutes, section 245A.19, (b).

Violation: The license holder did not comply with the requirements for HIV training in chemical dependency programs.

a. Two of four personnel files reviewed for orientation requirements (personnel files numbered 1 and 6) did not contain documentation that training to the HIV minimum was completed within 72 hours of employment.

b. Two of two personnel files reviewed for annual trainings (personnel files numbered 5 and 7) did not contain documentation that the staff persons received annual training to the HIV minimum standards.

c. Five of five client files reviewed for client orientation to HIV minimum standards requirements did not meet the requirements as follows:

(1) Three client files did not contain documentation that the clients received orientation to the HIV minimum standards (client files numbered 1, 9, and 10); and

(2) Although two client files contained documentation that the clients received

orientation to the HIV minimum standards, this orientation did not occur within 72 hours of admission to the program as required (client files numbered 2 and 5).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

34. Citation: Minnesota Statutes, section 245A.65, subdivision 3.

Violation: Two of six personnel files reviewed for orientation of mandated reporter requirements (personnel files numbered 1 and 6) did not contain documentation that the following training was provided within 72 hours of providing direct contact services:

- a. Training on the vulnerable adult reporting requirements and definitions in sections 626.557 and 626.5572;
- b. Training on the license holder's program abuse prevention plan; and
- c. Training on internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

35. Citation: Minnesota Rules, part 9530.6460, subpart 2, C.

Violation: Two of two personnel files reviewed for compliance with annual training requirements (personnel files numbered 5 and 7) did not contain documentation of the following:

- a. Reporting of maltreatment of minors;
- b. Reporting of prenatal exposure to controlled substances;
- c. Vulnerable adult reporting requirements and definitions in sections 626.557 and 626.5572;
- d. The license holder's program abuse prevention plan;

- e. All internal policies and procedures related to the prevention and reporting of maltreatment of individuals receiving services; and
- f. Specific training covering the facility's policies for obtaining client releases of information.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

36. Citation: Minnesota Rules, part 9530.6460, subpart 2, A and B.

Violation: One personnel file was reviewed for compliance with training requirements that must be completed every two years (personnel file numbered 7) and did not contain documentation of training in the following required topics:

- a. Client confidentiality rules and regulations;
- b. Client ethical boundaries;
- c. Emergency procedures; and
- d. Client rights as specified in Minnesota Rules, part 4747.1500 (effective August 1, 2012, see 2012 Laws of Minnesota chapter 197, article 2, section 34) and Minnesota Statutes, section 253B.03.

37. Citation: Minnesota Rules, part 9530.6460, subpart 2, E.

Violation: One of two personnel files reviewed for compliance with the requirement of 12 hours of training in co-occurring mental health problems and substance use disorders (personnel file numbered 5) did not contain documentation of the required training.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

38. Citation: Minnesota Rules, part 9530.6460, subpart 3, C.

Violation: One of five personnel files reviewed for requirements governing staff persons who provided psychotherapy services (personnel file numbered 1) did not

contain documentation that inquiries were made to former employers, for the preceding five years, regarding substantiated sexual contact with clients as required by Minnesota Statutes, section 604.202.

39. Citation: Minnesota Rules, part 9530.6445, subpart 5.

Violation: The license holder did not ensure that when clients are present, at least one staff person is on the premises who has a current American Red Cross (or equivalent) first aid certificate, and at least one staff person is on the premises who has a current American Red Cross community, American Heart Association, or equivalent CPR certificate.

40. Citation: Minnesota Rules, parts 9530.6440, subpart 3, item A and 9530.6470, subpart 1.

Violation: One of five client files reviewed for documentation that the clients received information on client rights (client file numbered 2) contained documentation that the client was given a written statement of the rights and responsibilities and that the statement was reviewed with the client. However, this did not occur upon service initiation, as required.

41. Citation: Minnesota Rules, part 9530.6470, subpart 2.

Violation: One of five client files reviewed for requirements governing the grievance procedure (client file numbered 2) contained documentation that the client received the grievance procedure. However, the client did not receive the grievance procedure upon service initiation, as required.

42. Citation: Minnesota Rules, part 9530.6440, subpart 3, A.

Violation: Five of five client files reviewed (client files numbered 1, 2, 5, 9, and 10) did not contain documentation that the client received information on tuberculosis and tuberculosis screening.

43. Citation: Minnesota Statutes, section 245A.65, subdivision 1, paragraph (c), and subdivision 2, paragraph (a), clause (4).

Violation: Five of five client files reviewed for orientation requirements did not meet the requirements governing maltreatment of vulnerable adults in the following ways:

a. Although the client files contained documentation that clients received orientation to the internal and external reporting procedures including the telephone number for the Common Entry Point (CEP) and to the license holder's program abuse prevention plan, when questioned about the orientation process a staff person admitted that these documents are not reviewed with the clients (client files numbered 2, 5, 9, and 10).

b. A client file did not contain documentation that clients received orientation to the internal and external reporting procedures including the telephone number for the Common Entry Point (CEP) and to the license holder's program abuse prevention plan (client file numbered 1).

44. Citation: Minnesota Statutes, section 626.557, subdivision 3a, clause (1).

Violation: One of five client files reviewed (client file numbered 2) did not contain documentation that the license holder sought consent to disclose suspected maltreatment from the client upon admission.

45. Citation: Minnesota Statutes, section 626.557, subdivision 3a.

Violation: The forms used by the license holder to seek consent to disclose suspected maltreatment from clients did not include the following requirements:

- a. The specific name or general designation of the program or person permitted to make the disclosure;
- b. The name or title of the individual or the name of the organization to which disclosure is to be made;
- c. A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it; and
- d. The date, event, or condition upon which the consent will expire if not revoked before.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

46. Citation: Minnesota Rules, part 9530.6420.

Violation: Three of five client files reviewed for requirements governing initial services plans did not meet requirements in the following ways:

- a. The client file contained two initial services plans. The first was not signed or dated when a DHS licensor initially reviewed the document. However, when a copy of this document was requested, a copy was returned to the DHS licensor with a signature of a counselor dated August 3, 2012, which was the current day's date. The second initial services plan was completed on August 1, 2012. The client's date of service initiation was June 8, 2012 (client file numbered 10).
- b. The initial services plan was not signed or dated (client file numbered 2).

c. The initial services plans did not identify the issues to be addressed in the first treatment sessions (client files numbered 2, 5, and 10).

d. The initial services plans did not make treatment suggestions for the clients during the time between intake and completion of the treatment plan (client files numbered 2 and 5).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

47. Citation: Minnesota Statutes, section 245A.65, subdivision 1a.

Violation: Three of five client files reviewed for requirements governing vulnerable adult determinations did not meet requirements in the following ways:

- a. The client file did not contain a vulnerable adult determination (client file numbered 2).
- b. The client file contained a vulnerable adult determination that was not dated, so it could not be determined if it was completed within 24 hours of admission to the program (client file numbered 5).
- c. Although a client file contained a vulnerable adult determination, it was not completed within 24 hours of admission to the program (client file numbered 10).

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

48. Citation: Minnesota Rules, part 9530.6500, subpart 6.

Violation: Five of five client files reviewed for requirements governing methadone program central registry forms did not meet requirements in the following ways:

- a. A client file did not contain a copy of the central registry form (client file numbered 5).
- b. Two client files did not contain a copy of the central registry form. The license holder was able to produce these forms at a later point (client files numbered 2 and 10).
- c. The central registry form did not include the following required items:
 - (1) The date of admission (client file numbered 1);

(2) Enrollment status in other current or last known opiate treatment programs (client files numbered 1 and 2);

(3) Government issued photo identification card number (client files numbered 1 and 2); and

(4) Driver's license number, if any (client files numbered 1 and 2).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

49. Citation: Minnesota Rules, part 9530.6422, subpart 1, items D, E, G, H, and J through O.

Violation: Three of three client files reviewed for comprehensive assessments did not meet requirements in the following ways:

a. Two comprehensive assessments did not contain documentation that they were completed within the required amount of time after service initiation (client files numbered 5 and 10).

b. The assessments did not contain:

(1) The clients' chemical use history including amounts and types of chemicals used, frequency and duration of use, and periods of abstinence; and circumstances of relapse if any, and for each chemical used within the previous 30 days, the date and time of the most recent use and any previous experience with withdrawal (client files numbered 5, 9 and 10).

(2) The client's specific problem behaviors exhibited by the client when under the influence of chemicals (client file numbered 5).

(3) The clients' physical concerns or diagnoses, the severity of the concerns and whether or not the concerns are being addressed by a health care professional (client files numbered 9 and 10).

(4) The clients' mental health history and current psychiatric status, including symptoms, disability, current treatment supports, and psychotropic medication needed to maintain stability (client files numbered 5 and 10).

(5) The clients' ability to function appropriately in a work and educational setting (client files numbered 9 and 10).

(6) The client's ability to understand written treatment materials including rules and client rights (client file numbered 5).

(7) The clients' risk taking behavior including behavior that puts the client at risk of exposure to blood borne or sexually transmitted diseases (client files numbered 5, 9, and 10).

(8) The client's social network in relation to expected support for recovery and leisure time activities that have been associated with chemical use (client file numbered 5).

(9) Whether the client is pregnant and, if so, the health of the unborn child and current involvement in prenatal care (client file numbered 5).

(10) Whether the clients recognize problems related to substance use and are willing to follow treatment recommendations (client files numbered 5, 9, and 10).

50. Citation: Minnesota Rules, part 9530.6422, subpart 2.

Violation: Three of three client files reviewed for requirements governing assessment summaries did not meet requirements in the following ways:

a. An assessment summary was not completed within the required amount of time after service initiation (client file numbered 10).

b. An assessment summary was not prepared by an alcohol and drug counselor (client file numbered 5).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

51. Citation: Minnesota Rules, part 9530.6425, subparts 1 and 2.

Violation: Five of five client files reviewed for requirements governing individual treatment plans did not meet requirements in the following ways:

a. There was no treatment plan for a client. A treatment plan was required to be completed by July 18, 2012, for a client. At the time of the review on August 2, 2012, a treatment plan had not been completed for the client (client file numbered 5).

b. A client file contained a treatment plan form that was signed and dated by the client. However, the remainder of the form was left blank except for these two statements listed in the methods section, "Read BB" and "HIV." The treatment plan did not address each problem identified in the assessment summary and did not

include any specific methods to be used to address identified problems (client file numbered 1).

c. A client file contained two treatment plans. One treatment plan was not signed by an alcohol and drug counselor and did not contain a date. The second treatment plan was not signed by the client (client file numbered 2).

d. A treatment plan was not signed by an alcohol and drug counselor (client file numbered 9).

e. A treatment plan was not signed by the client (client file numbered 10).

f. Two treatment plans were not completed within seven calendar days of completion of the assessment summary (client files numbered 9 and 10).

g. Two treatment plans did not document the involvement of the clients' family and those people selected by the clients as being important to the success of the treatment experience (client files numbered 2 and 9).

h. Two treatment plans did not contain documentation that the clients had active, direct involvement in selecting the anticipated outcomes of the treatment process and in developing the treatment plans (client files numbered 2 and 10).

i. A treatment plan did not address each problem identified in the assessment summary (client file numbered 9).

j. Three treatment plans did not include specific methods to be used to address identified problems, including amount, frequency, and anticipated duration of treatment services (client files numbered 2, 9, and 10).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

52. Citation: Minnesota Rules, part 9530.6425, subpart 3, A.

Violation: Six of six client files reviewed for requirements governing progress notes did not meet requirements in the following ways:

a. Progress notes were not entered in the clients' files weekly (or monthly, as allowed for clients after the first 10 weeks of treatment services, per the variance for methadone programs) or after each treatment service, whichever is less frequent, by the person providing the service (client files numbered 2, 3, 4, and 9).

b. Progress notes did not indicate the type and amount of each treatment service the client had received (client files numbered 1, 3, and 4).

c. Progress notes did not include the monitoring of any physical and mental health problems (client files numbered 1, 2, 9, and 10).

53. Citation: Minnesota Rules, part 9530.6425, subpart 3, B.

Violation: Three of six client files reviewed for requirements governing treatment plan reviews did not meet requirements in the following ways:

a. The treatment plan reviews were not entered in the client's file weekly (or monthly, as allowed for clients after their first 10 weeks of treatment service, per the variance for methadone programs) or after each treatment service, whichever is less frequent, by the person providing the service (client files numbered 2 through 4).

b. The treatment plan reviews did not address whether the strategies to address the goals were effective (client files numbered 2 through 4).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

54. Citation: Minnesota Rules, part 9530.6425, subpart 4.

Violation: Three of three client files reviewed for requirements governing summaries at the termination of services did not meet requirements in the following ways:

a. The discharge summaries did not contain documentation that they were prepared within five days after the client's service termination as they were not dated (client files numbered 6 through 8).

b. The summaries in the client files did not include the following required information:

(1) The summaries were not recorded in the six dimensions and did not include the client's problems strengths and needs while participating in treatment, including services provided (client files numbered 6 through 8).

(2) The client's progress toward achieving each of the goals identified in the individual treatment plan (client files numbered 6 through 8).

(3) Risk descriptions (client files numbered 6 through 8).

(4) Continuing care recommendations (client file numbered 6).

(5) Client's prognosis (client file numbered 6).

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

55. Citation: Minnesota Rules, parts 9530.6440, subpart 1 and 9530.6425, subpart 3, item C.

Violation: The content and format of client records must be uniform and entries in each case must be signed and dated by the staff member making the entry. The client files were not uniform and contained numerous entries throughout that were not signed or dated. The license holder was unable to locate portions of the client records until after multiple requests were made by the DHS licensors and after multiple attempts were made by staff persons to locate the missing portions in different areas of the program. Multiple items from several client files could not be located despite numerous requests.

Repeat Violation: This is a repeat violation. The license holder was previously cited for similar violations in the following orders:

- Order of Conditional License dated March 26, 2012
- Correction Order dated December 22, 2009

56. Citation: Minnesota Rules, part 9530.6450, subpart 3.

Violation: The treatment director at the time of the licensing review (SP3) and the former treatment director, who was the regional director at the time of the licensing review, (SP10) did not know and understand the implications of Minnesota Rules, parts 9530.6405 to 9530.6505. This was evidenced by the number and nature of citations and repeat violations.

Repeat Violation: This is a repeat violation. The license holder was cited for a similar violation in an Order of Conditional License dated March 26, 2012.

Based on noncompliance with terms of the March 26, 2012, conditional license and serious and chronic licensing violations identified above, the Commissioner has determined that continued operation of the program is not in the best interest of persons who would be served by the chemical dependency treatment program and the Commissioner is revoking your license to provide chemical dependency treatment services.

C. Right to Request a Contested Case Hearing to Appeal the License

Revocation

You have the right to request a contested case hearing under Minnesota Statutes, chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612 to appeal the license revocation. If you choose to exercise this right, your request must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the Commissioner within ten (10) calendar days after you receive this order. If a request is made by personal service, it must be received by the Commissioner within ten (10) calendar days after you receive this order.

A timely request for a contested case hearing shall stay the license revocation until the Commissioner issues a final order. (See Item D.)

Your request for a contested case hearing must be sent to:

Commissioner, Department of Human Services

ATTN: Legal Staff

c/o Licensing Division

PO Box 64242

St. Paul, MN 55164-0242

D. Operation of the chemical dependency treatment program pending a final order

A timely appeal will stay this Order of License Revocation, and thus would allow continued operation of the chemical dependency treatment program pending the outcome of an appeal before an administrative law judge. If you continue to operate the chemical dependency treatment program under this item, you must operate the program in full compliance with all licensing requirements set forth in Minnesota Statutes and Rules. The Licensing Division will continue to monitor your program and will conduct unannounced site visits to ensure on-going compliance with all licensing requirements set forth in Minnesota Statutes and Rules. If any violations are determined while you operate under appeal, the Department will take whatever additional licensing actions it deems necessary including a possible immediate suspension of your chemical dependency treatment services license.

If you have any questions regarding the Order of License Revocation, please contact Julie Reger, Unit Manager, at (651) 431-6601.

Sincerely,

Michelle Long, Supervisor

Licensing Division

Office of Inspector General

cc: Mike Ford, Colonial Management Group, LP

Ann Busche, St. Louis County Public Health and Human Services

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